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# INVESTING IN AFRICA: 2018 SEMINAR SERIES HOW TO ADDRESS THE HUMAN COST OF BUSINESS AND REDUCE INVESTMENT RISK

8 NOVEMBER 2018

# WELCOME AND INTRODUCTION

## TODAY'S PRESENTERS

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# OVERVIEW FOR TODAY

## TOPICS TO BE COVERED TODAY

### Importance of human rights and a clean supply chain

- Reputation
- Financing
- Operations
- Social licence
- Investment risk

### Common human rights issues in Africa

- Mighty Mining case study

### Human rights framework

- Conventions and principles
- New / proposed legislation – Australia's modern slavery legislation

### Preventative action

- Actions for Mighty Mining – developing and implementing an effective human rights framework
- Clean supply chain reporting
- Human rights grievance mechanisms

# FOUNDATIONS

## WHAT ARE THE HUMAN RIGHTS PRINCIPLES?

### Respect

- Businesses should support and respect the protection of internationally proclaimed human rights

### Protect

- Businesses should make sure that they are not complicit in human rights abuses

## WHY IS THIS IMPORTANT FOR AAMEG MEMBERS?



# UNDERSTANDING HUMAN RIGHTS PRINCIPALS AND ENSURING A CLEAN SUPPLY CHAIN

WHY IS THIS IMPORTANT FOR AAMEG MEMBERS?

## Benefits include:

- **Financing** (Ethical Financing)
- Continuous Safe **Operations**
- Building and maintaining **Reputation**
- **Product Differentiation** (Apple, Tesla, etc)

Example 



## A supply chain that empowers people and protects the planet.

We hold ourselves and our suppliers to the highest standard when it comes to human rights, environmental protections and responsible business practices in our supply chain. Together with our partners, we go above and beyond accepted industry practices to improve the lives of our suppliers' employees while conserving the earth's resources for generations to come. And we share our vision, processes and results openly — because we believe transparency keeps us accountable to ourselves and the world, while allowing others to learn and benefit from our experience.

[View the 2018 Progress Report \(PDF\)](#)

## POSSIBLE MINERAL AND METAL CERTIFICATION

### SHOULD A GLOBAL CERTIFICATION BODY BE SET UP TO ENSURE THE ETHICAL SOURCING OF COBALT, COPPER, COLTAN ETC?

#### Examples:

- Most cobalt reserves are found in the DRC where chronic instability has already had repercussions for corporate governance
- The London Metal Exchange is investigating whether cobalt mined by child labour has been traded on its platform and is now drawing up plans to clamp down on cobalt brands on its approved list thought to be tainted by human rights abuses



***"One of the biggest challenges for the industry today is ensuring mineral sources are ethical. Certification is vital as there is a real possibility that unethically-acquired metal has crept into the supply chain."***



## VOLUNTARY PRINCIPALS

AAMEG MEMBERS ARE USUALLY ONLY INVOLVED DIRECTLY THROUGH THE VOLUNTARY PRINCIPALS (VPI) – SHOULD BE AWARE OF OTHER HUMAN RIGHTS PRINCIPLES

### Armed Forces

- Most human rights challenges come directly from armed forces
- Can be attributed to political instability as a consequence of civil war and border conflicts

### Voluntary Agreement

- Therefore it is important to work on a voluntary principals agreement with your security stakeholders

### AAMEG Website

- The Voluntary Principles on Security and Human Rights - ***An Implementation Toolkit for Major Project Sites***





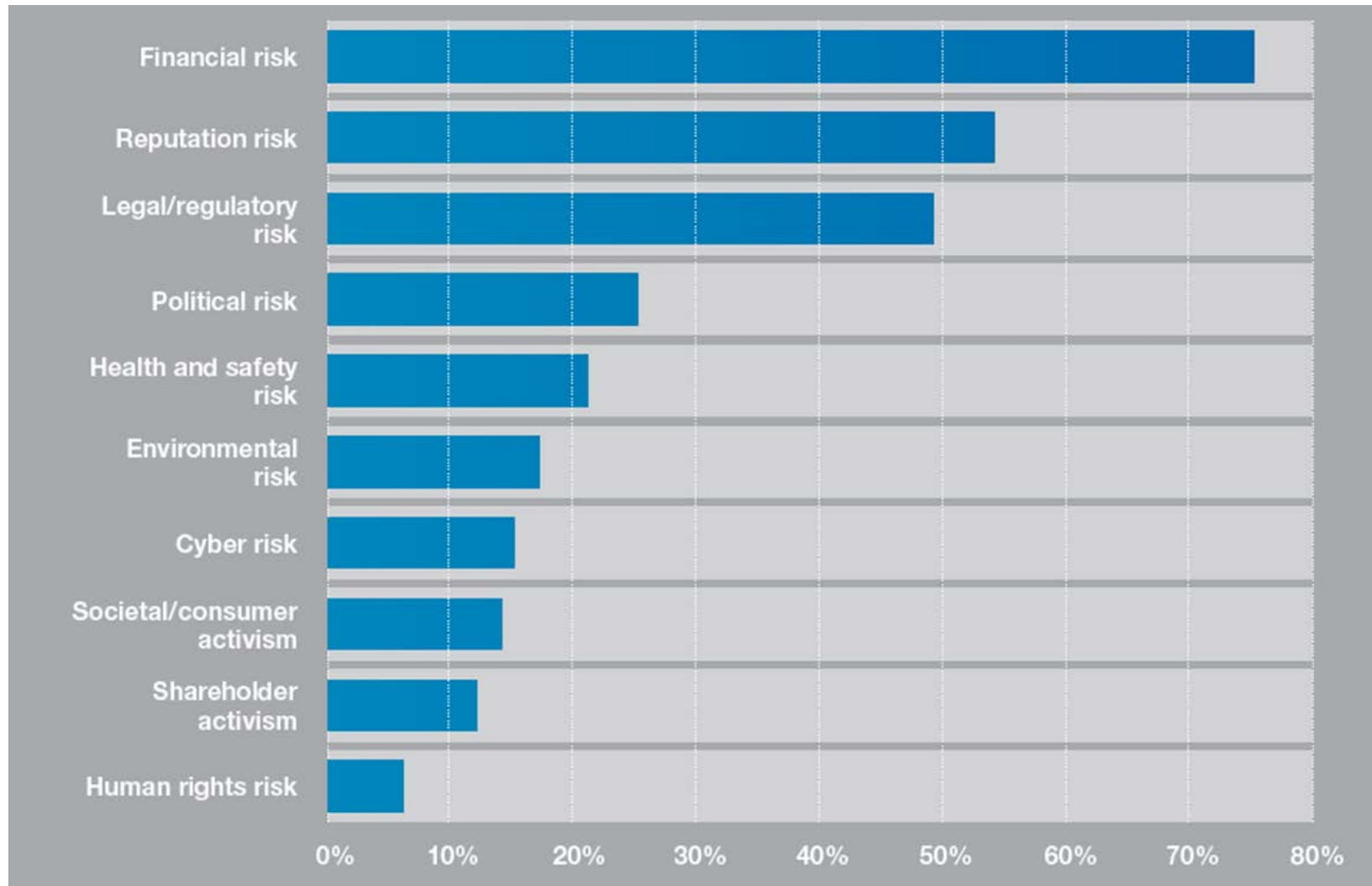
# HUMAN RIGHTS ABUSES COME IN MANY FORMS

## IDENTIFICATION AND MITIGATION LEADS TO FREEDOM FROM SLAVERY

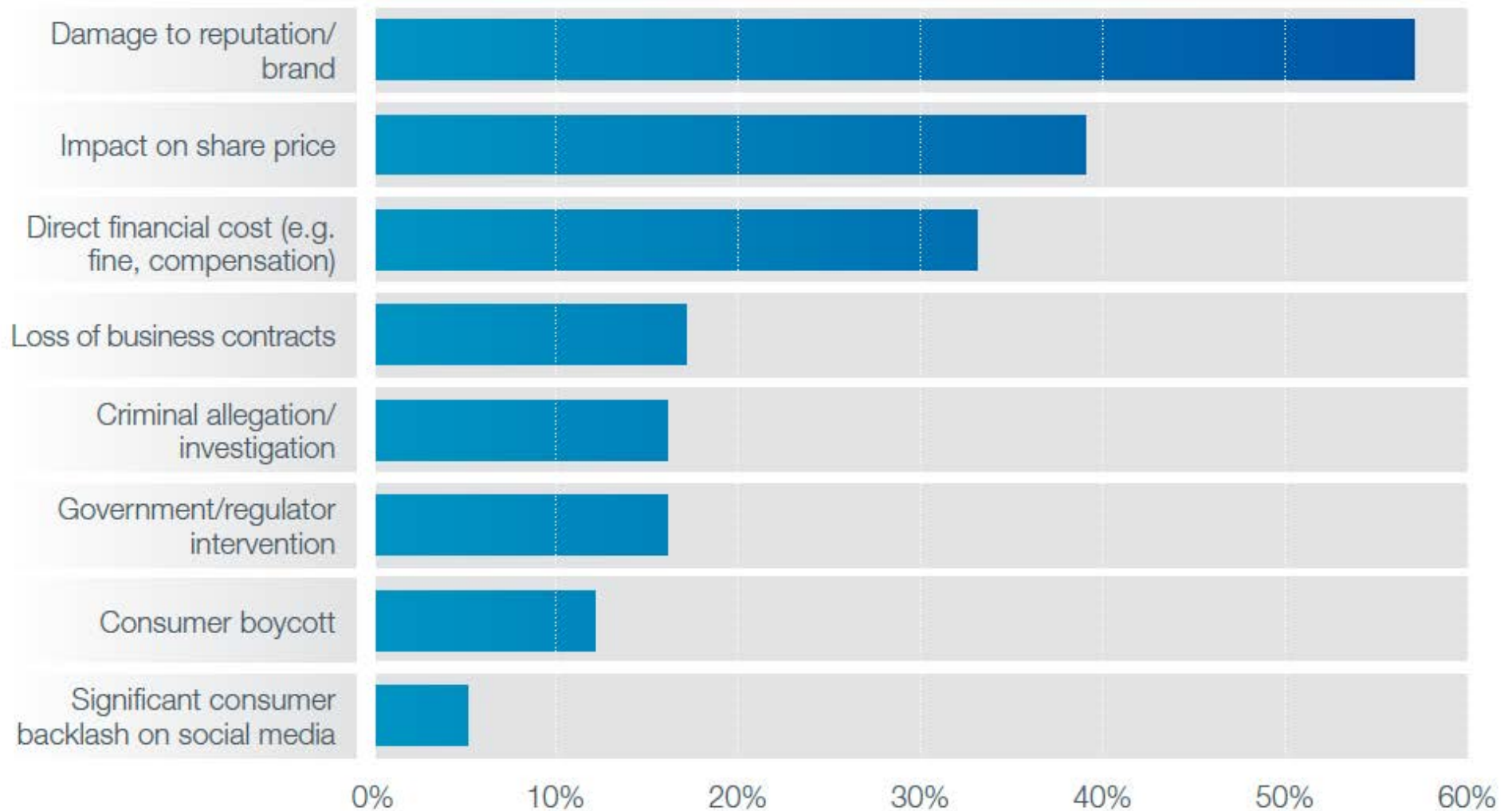


# HUMAN RIGHTS RISK HAS LIMITED RECOGNITION

## WHICH RISK CATEGORIES IS YOUR BOARD CURRENTLY FOCUSING ON?

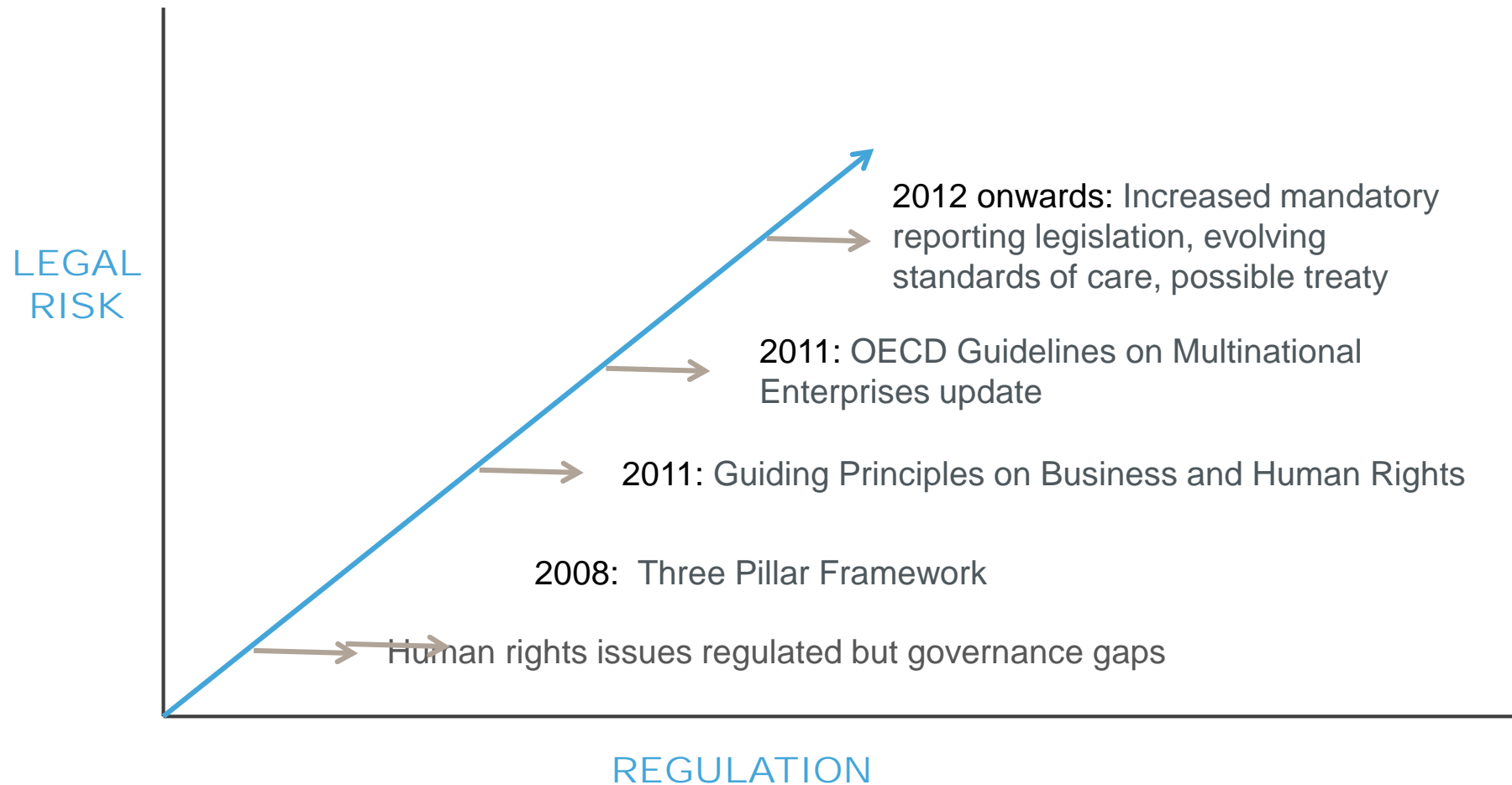


## YET REPUTATIONAL RISK IS OF GREATEST CONCERN IN THE EVENT OF MAJOR INCIDENT / SCANDAL, WHICH CONSEQUENCE IS OF GREATEST CONCERN FROM YOUR ORGANIZATION'S PERSPECTIVE?



# LAW STANDARDS INCREASINGLY TURN INTO HARD LEGAL OBLIGATIONS

## THE HUMAN RIGHTS EXAMPLE



## THE UN GUIDING PRINCIPLES DEVELOPMENT OVER TIME

2005

Professor John Ruggie (Harvard University) appointed by Kofi Annan, UN SG, with mandate to: *“identify and clarify standards of corporate responsibility and accountability with regard to human rights and to elaborate on the role of State regulation in this area, including through international cooperation”*

2008

Ruggie proposed a ‘conceptual framework’ comprising three pillars:

- States have a legal duty to protect against human rights abuses committed by third parties, including business enterprises;
- Business enterprises have a responsibility to protect human rights; and
- Victims of business-related human rights abuse need access to effective remedies

2011

UN Human Rights Council unanimously approved: *Guiding Principles on Business and Human Rights: Implementing United Nations ‘Protect, Respect and Remedy’ Framework” (UNGPs)*

# THE CORPORATE RESPONSIBILITY TO RESPECT

## GP 11 - 24

### Respect

- The responsibility to respect human rights requires that business enterprises:
- Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur
- Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

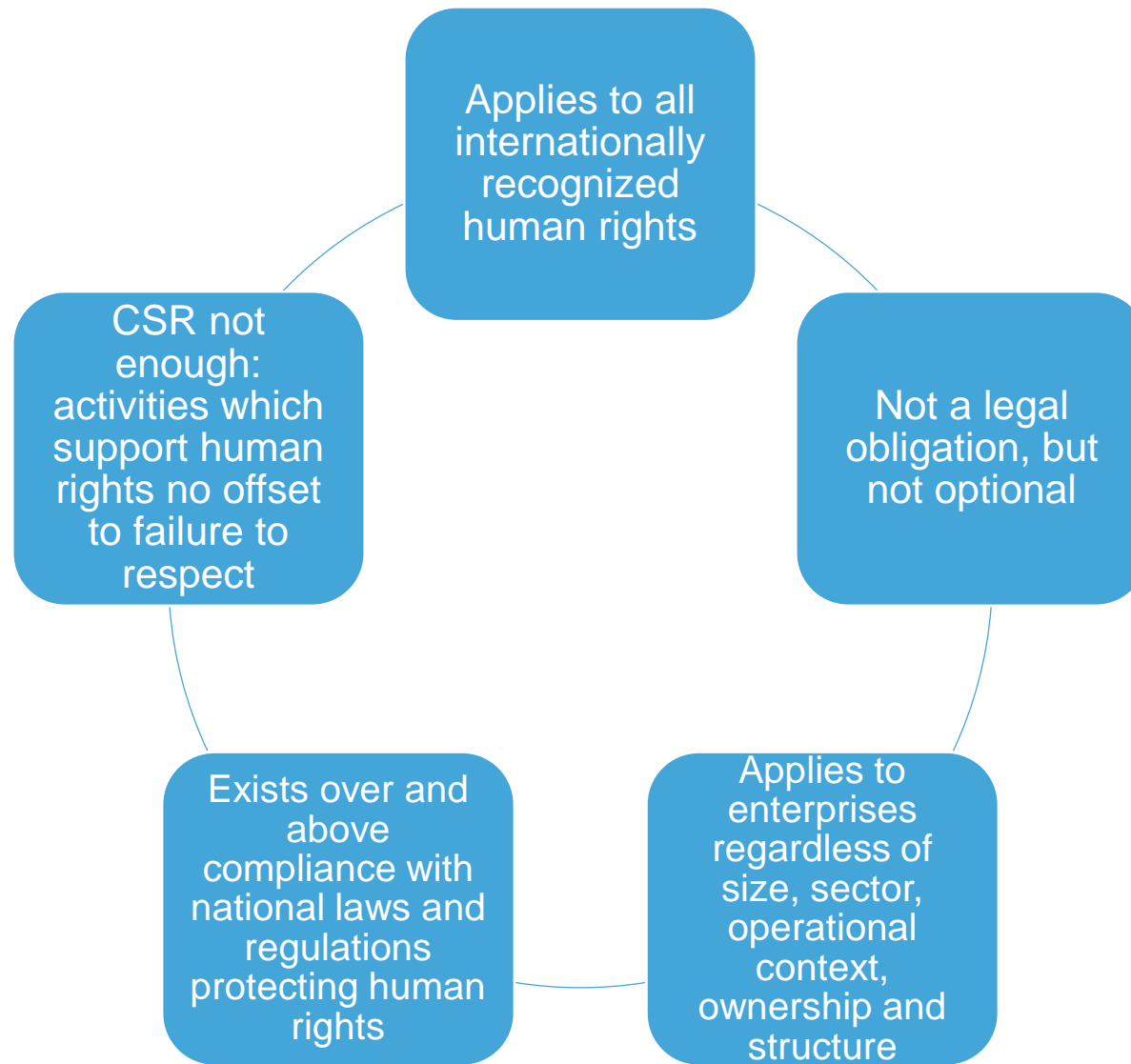
### Responsibility

To meet their responsibility, business enterprises should:

- Implement a Human Rights Policy (GP 16)
- Conduct due diligence (GPs 17 -21) including taking appropriate action/reporting publicly
- Develop processes to remedy impacts they have caused or contributed to GP 22 (also GPs 29 and 31)

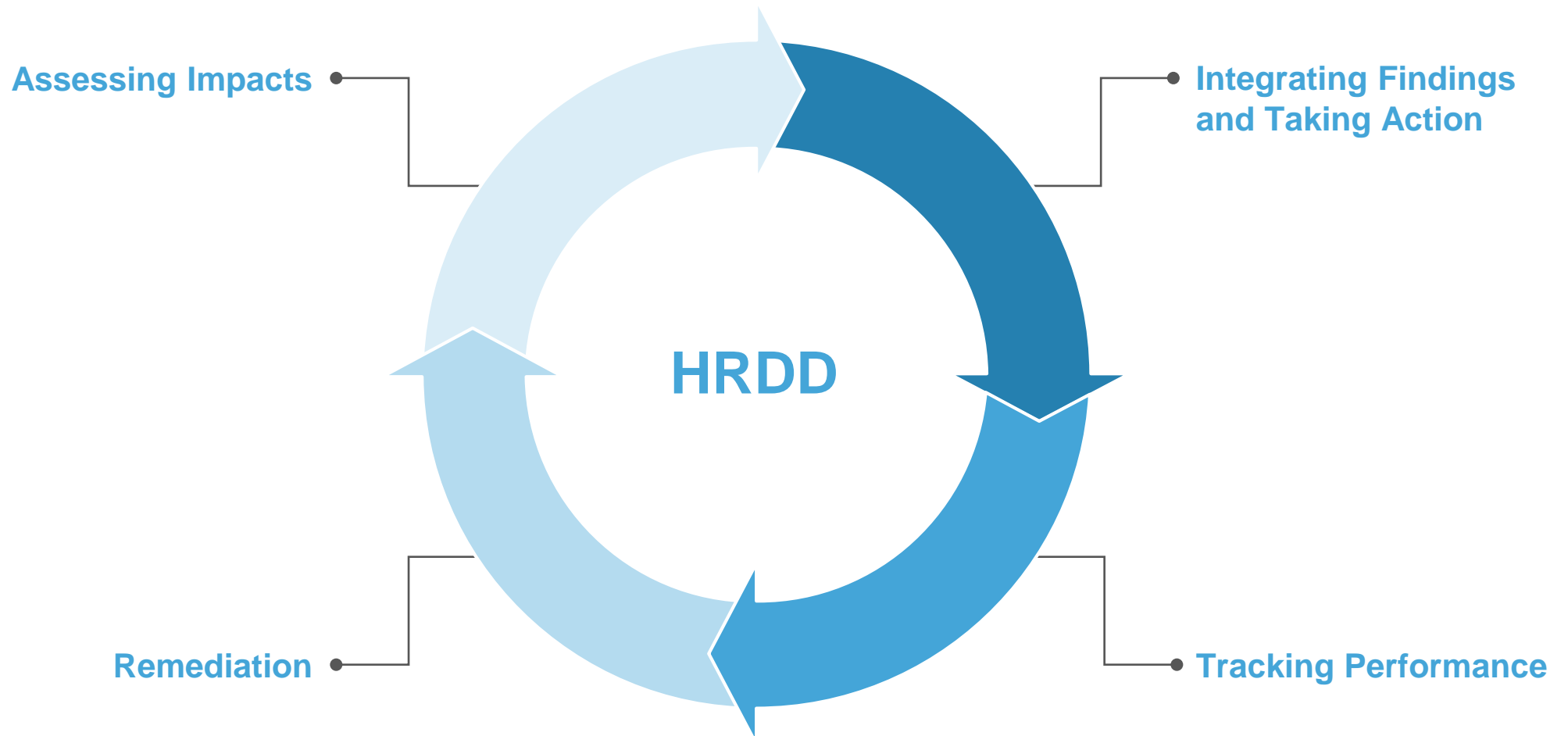
# THE CORPORATE RESPONSIBILITY TO RESPECT

## KEY CHARACTERISTICS



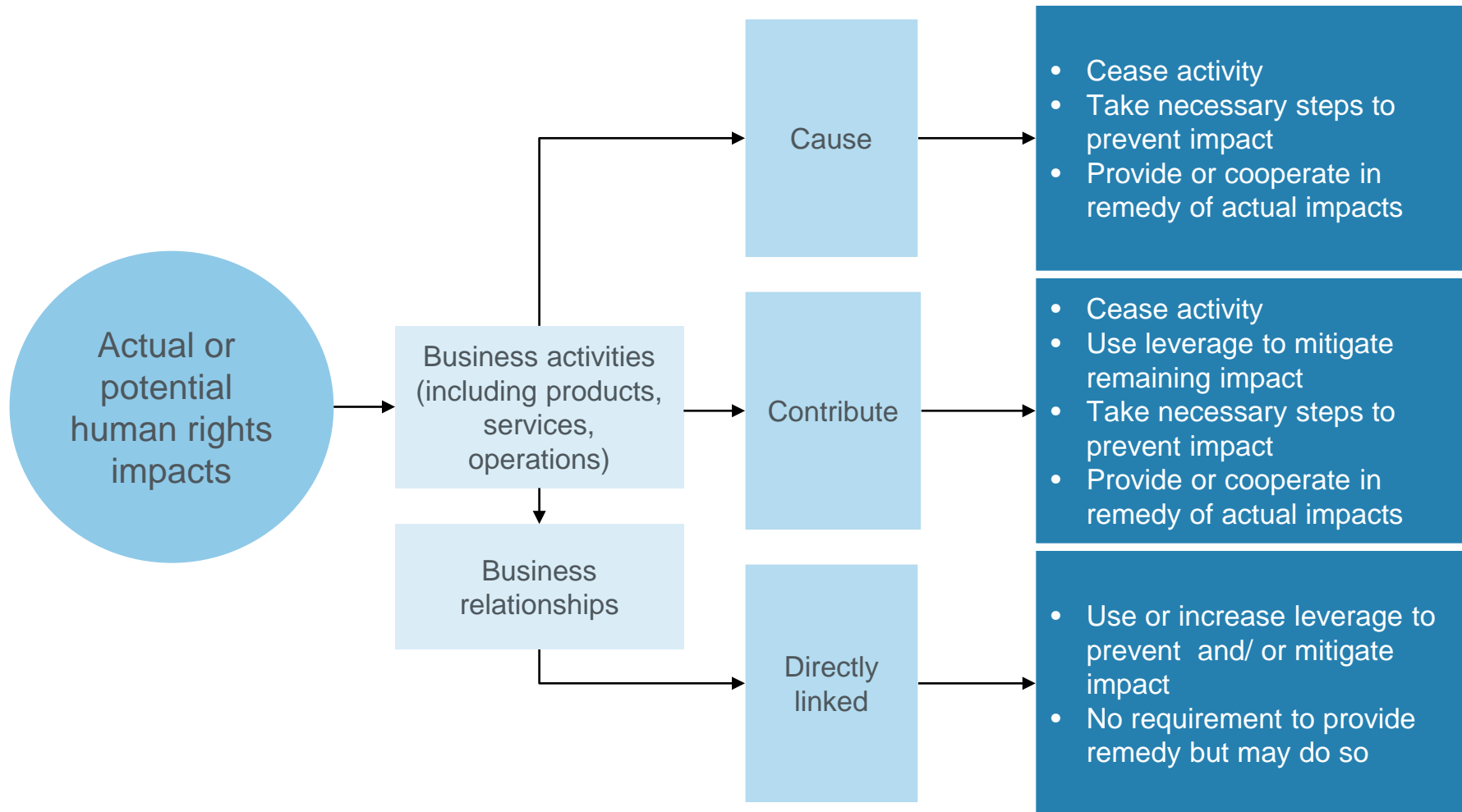


# THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS DUE DILIGENCE



# THE CORPORATE RESPONSIBILITY TO RESPECT

## ANALYSING BUSINESS INVOLVEMENT AND APPROPRIATE ACTION



## HUMAN RIGHTS CHALLENGES IN AFRICA

## CASE STUDY MIGHTY MINING



- ASX listed holding company
- Positive feasibility study for gold assets completed in 2015
- Mighty Mining borrowed heavily through a syndicated loan to finance construction
- Construction of open pit mine began in 2016 and first tonne of ore shipped in early 2018
- Mine is located in an impoverished rural area surrounded by different, sometimes conflicting, local community groups





## What was Mighty Mining's approach to human rights?

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Embedding  
values in  
business  
operations?

- As a relatively young company, keen to develop its first mine, management prioritised quick, economical mine build
  - Management had limited contact with local communities and stakeholders prior to build, although did engage a local consultant to help manage relationships after the mine was built
  - CEO of Mighty Mining said they would deal with any human rights problems as and when they arose
  - Mighty Mining has a human rights policy which is publicly available on its website, but has not taken any concrete steps to embed human rights protection and promotion into its everyday operations
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## So what happened next to Mighty Mining?

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### Human rights challenges

- One of the local community groups near the gold mine has also begun protesting on the grounds that the operations are injuring public health due to increased noise, dust and the flow of water to their village has been affected
  - The Department of Mining has issued a warning to Mighty Mining, threatening to suspend its mining license unless the public health risk was addressed immediately
  - At the same time, Mighty Mining has been trying to obtain further finance to construct a second pit
  - Mighty Mining is concerned that there will be questions asked by investors at its AGM, to be held in a months' time
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## What could Mighty Mining have done differently? Develop and implement an effective human rights framework

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### 1. Define Company position

- Does MM believe they have a responsibility to create positive social impact that would not have occurred but for their presence ... beyond merely mitigating the negative impacts caused by their operations / presence in host communities?

### 2. Describe this Company position to the world (internal & external stakeholders)

- Capture this company position in policies and procedures, on your website, via reporting etc.

### 3. Embed the Company position into actions & reality

- Start small and learn from doing – effectively addressing human rights is complex and we're all on a journey
  - You can build on knowledge as you execute and progress
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## PREVENTATIVE ACTION

### EMBEDDING POLICIES & PROCEDURES INTO ACTIONS

Address human rights in a cross functional way

Leverage existing data

Monitor what is occurring in external human rights space

Pilot new ways to address emerging human rights issues before embedding as BAU

Establish clear accountability

Get the culture right!

Review risk from a salience lens

Conduct capacity building

CLEAN SUPPLY CHAIN

# MODERN SLAVERY IS A GLOBAL CHALLENGE





# MODERN SLAVERY IS A GLOBAL CHALLENGE TAKING MANY FORMS

**Modern slavery**

**Debt bondage**

**Child trafficking**

**Forced labour**

**Domestic servitude**

**Human trafficking**

**Sex trafficking**



## WHY IS MODERN SLAVERY RELEVANT TO BUSINESS AND HOW ENDEMIC IS THE PROBLEM?

	Estimated 21 million people enslaved (ILO), 68% subject to forced labour, mostly in the private economy
	Slavery affects most industries – electronics, steel, automobiles, agriculture, seafood, mining and minerals, garments and textiles, and shipping and transportation
	SCM World: only 17% of companies have good visibility of tier three and four of their supply chains
	Estimated 21 million people enslaved (ILO), 68% subject to forced labour, mostly in the private economy
	Complex global supply chains are not immediately evident and difficult to uncover

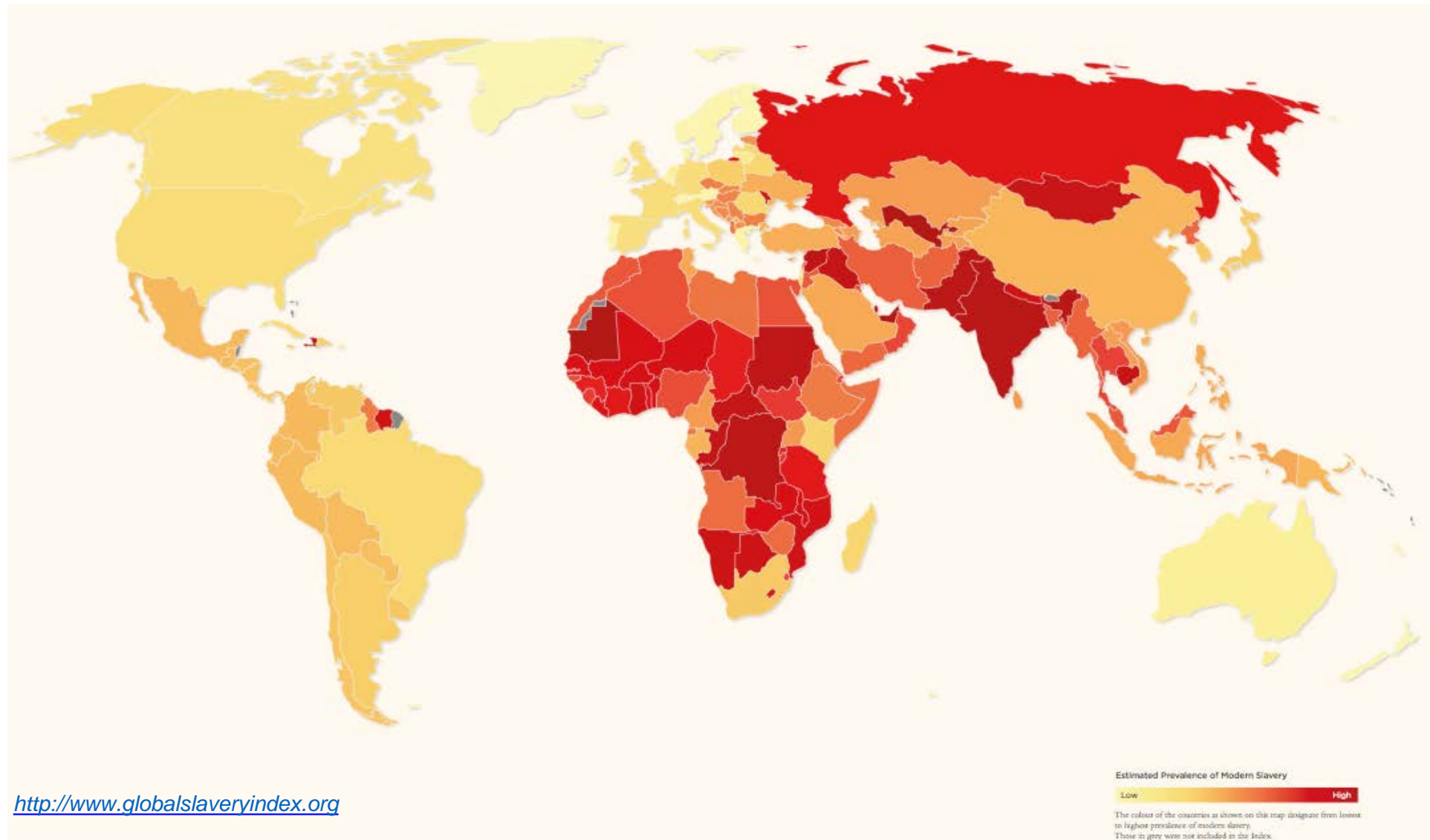
## THE RISK TO BUSINESS SURELY THIS WON'T AFFECT OUR BUSINESS?



- Reputational damage
- Restricted access to finance
- Reduced access to premium pricing on sale
- Legal repercussion – regulatory breaches
- Lack of customer confidence - litigation
- Reduced market share
- Personal liability of directors, senior management and supply chain personnel
- Impacted outputs

# COUNTRY RISK

## HEAT MAP DEMONSTRATING HIGH MODERN SLAVERY RISK







## Was Mighty Mining prepared to respond to modern slavery challenges?

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### Concerns over clean supply chain

- During the mine build, Mighty Mining opted to choose a cheaper brick to reduce costs, unaware that it was produced by low paid and child workers
- A prominent NGO discovered this and issued a public statement to this effect
- Mighty Mining received numerous requests from investors to confirm that the company has a clean supply chain
- An ethical investor fund has also requested that Mighty Mining verify that it is not involved in producing conflict minerals given the existence of conflict in the surrounding tribal communities

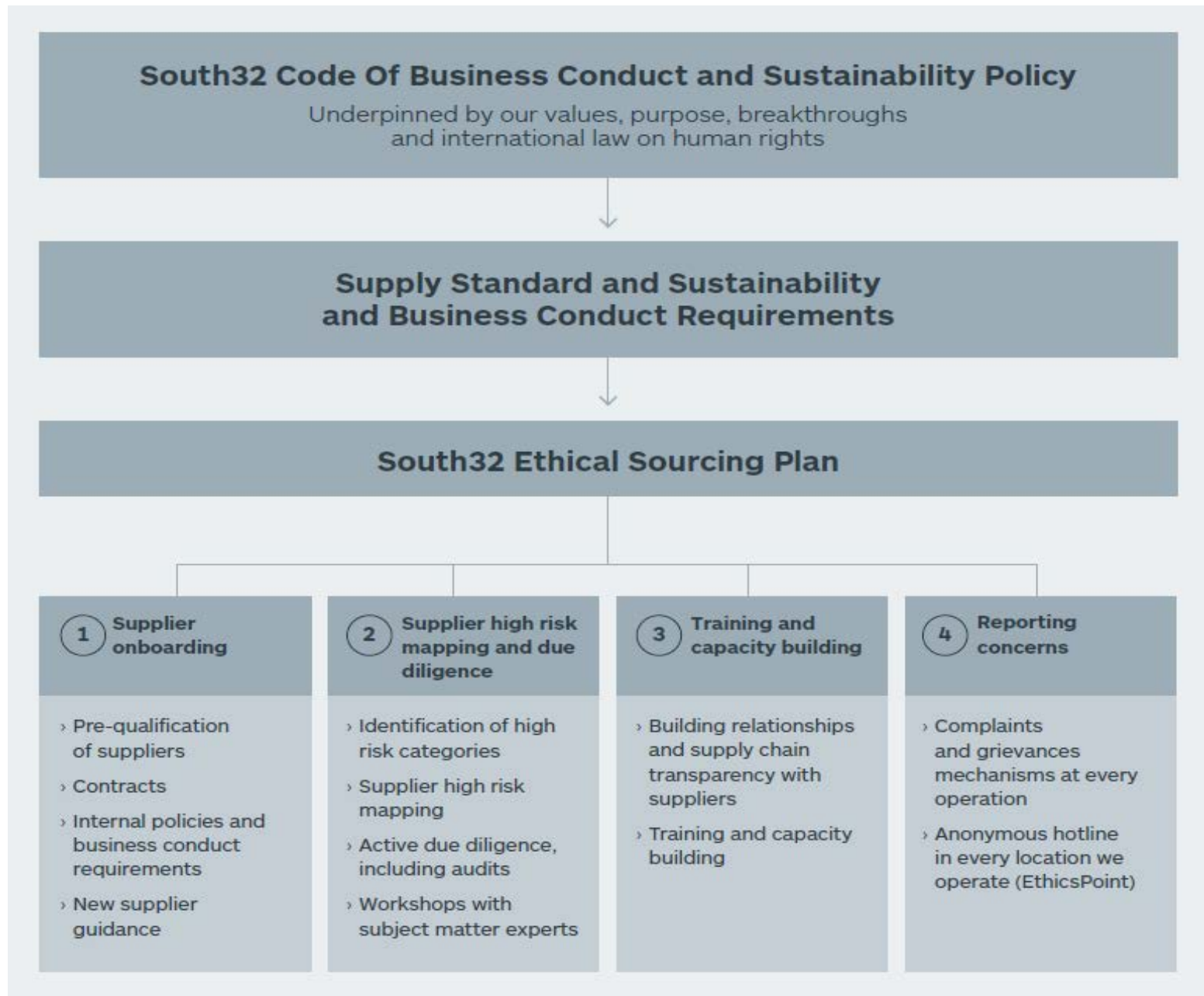
## CASE STUDY MIGHTY MINING



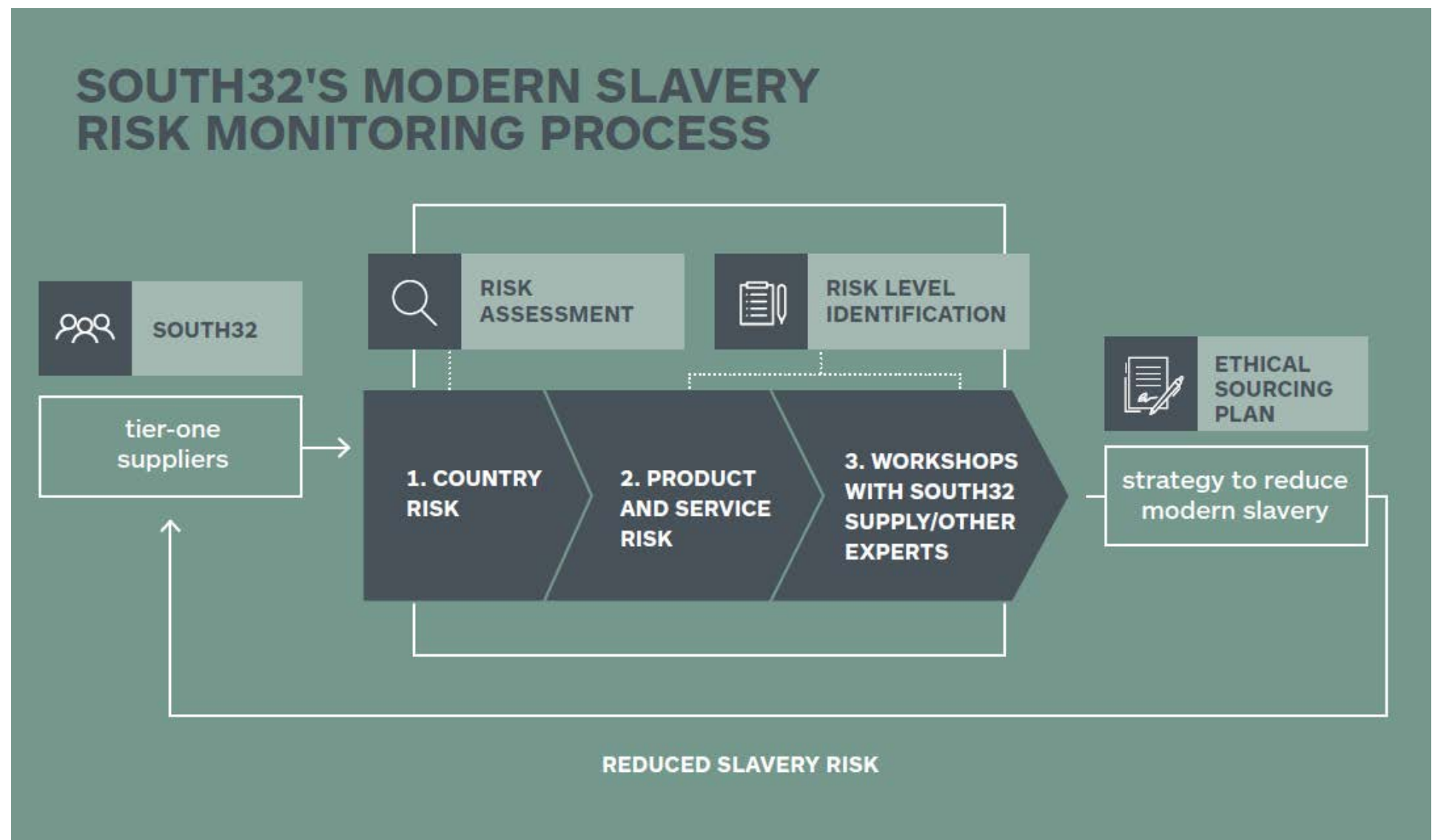
### What should Mighty Mining do to ensure it has a clean supply chain?

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- **STEP 1:** Confirm MM's [company vision for ethical sourcing](#) and ensure [leadership has buy-in](#) and sets the tone from the top
  
  - **STEP 2:** Form a [cross functional working group](#) who is responsible for creating, owning and executing a companywide [Ethical Sourcing Plan](#) which includes:
    - Good foundational policies & procedures
    - General supplier mapping based on supplier location, goods/services provided, existing DD
    - Individual supplier assessments
    - Due diligence (desktop or in-person) on suppliers identified as high-risk for modern slavery
    - Remediation position
    - Ethical sourcing KPIs
    - Robust complaints & grievances mechanism
    - Ethical sourcing reporting responding to investor, government and customer queries
    - Capacity building
    - Clear communication with suppliers on MM's ethical sourcing expectations
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# EXAMPLE: MODERN SLAVERY IN SUPPLY CHAINS FRAMEWORK



## EXAMPLE: MODERN SLAVERY RISK MONITORING PROCESS





## What can Mighty Mining do to reduce its investment risk?

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Reducing  
political and  
country risk

- Effectiveness of human rights framework
- Operational-level human rights grievance mechanisms
  - What are they?
  - How do you make them work?

Guiding Principle 29: *To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.*

**C L I F F O R D**  
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